

APPEAL NO. 032283
FILED OCTOBER 17, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was scheduled for June 18, 2003, but the respondent (claimant) did not attend due to illness. The hearing officer determined that the claimant had good cause for her failure to attend the June 18, 2003, setting. The case was rescheduled and the hearing was actually held on July 30, 2003. With respect to the single issue before him, the hearing officer determined that the claimant is entitled to supplemental income benefits (SIBs) for the 10th quarter, which began on January 5, 2003, and ended on April 5, 2003. The appellant (carrier) has appealed on evidentiary sufficiency grounds, seeking reversal. The appeal file does not contain a response to the carrier's appeal from the claimant.

DECISION

Affirmed.

The parties stipulated that the claimant sustained a compensable injury on _____; that she was assigned a 29% impairment rating for her compensable injury; that she did not elect to commute her impairment income benefits; and that the 10th quarter qualifying period ran from September 23 to December 22, 2002. The hearing officer determined that the claimant is entitled to SIBs for the 10th quarter because she had no ability to work in the qualifying period.

The hearing officer did not err in determining that the claimant satisfied the good faith requirement of Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102(d)(4) (Rule 130.102(D)(4)) by demonstrating that she had no ability to work in the qualifying period for the 10th quarter of SIBs. The hearing officer determined that the October 14, 2002, report from Dr. B, the claimant's treating doctor, satisfied the requirement of a narrative report that specifically explains how the compensable injury causes a total inability to work. The hearing officer's interpretation of that report is a reasonable interpretation and nothing in our review of the record reveals that the hearing officer's determination that Dr. B's report satisfies the narrative requirement is so against the great weight of the evidence as to be clearly wrong or manifestly unjust. Accordingly, we will not disturb that determination on appeal. The hearing officer also determined that no other records showed an ability to work in the qualifying period. That determination is not so against the great weight of the evidence as to compel its reversal on appeal, particularly in light of the evidence demonstrating that the claimant's physical condition was deteriorating in the qualifying period. The hearing officer was persuaded that the claimant presented sufficient evidence to satisfy the requirements of Rule 130.102(d)(4) and to sustain her burden of proving entitlement to SIBs for the 10th quarter. Nothing in our review of the record reveals that the challenged determination is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. As such, no sound basis exists for us to disturb the hearing officer's good faith

determination, or the determination that the claimant is entitled to SIBs for the 10th quarter, on appeal. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

We find no merit in the carrier's challenge to the hearing officer's determination that the claimant's unemployment in the qualifying period was a direct result of her impairment from the compensable injury. The evidence overwhelmingly supports the hearing officer's direct result determination and no basis exists for us to disturb that determination.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **LUMBERMENS MUTUAL CASUALTY COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS STREET
AUSTIN, TEXAS 78701.**

Elaine M. Chaney
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Margaret L. Turner
Appeals Judge